

Application No.: 10/559,646
Response dated: August ___, 2008
Response to Office Action of May 28, 2008

REMARKS/ARGUMENTS

This is responsive to the Office Action dated May 28, 2008. A response is due by August 28, 2008, with out an extension of the time for responding to the Office Action.

Claims 36 through 45 have been withdrawn and claims 46 – 56 are now pending in the application. While claims 48-56 are new, they are dependent upon and further limit previously pending claim 46 which has been the subject of the current examination. Also, the subject matter of the claims has been previously presented in this application.

Claim 46 was rejected under 35 U.S.C. § 112 as being indefinite because of the use of improper Markush language. This has been corrected to “consisting of”. Therefore, reconsideration and withdrawal of the rejection is requested.

Claim 47 was rejected under 35 U.S.C. § 112 and 35 U.S.C. § 101 for not setting forth the steps of the “use” or process.. The claim has been amended to address this issue. Therefore, reconsideration and withdrawal of the rejections is requested.

Although these amendments are being made after final, the Examiner has been able to examine the claims by treating these issues as understood. So, no new issues should be raised by the changes.

Claims 46 and 47 were rejected as anticipated under 35 U.S.C. § 102(b) by Hamill (GB 1,039,540).

The problem addressed by Applicant's invention is how to reduce or avoid the use of environmentally unfriendly coalescing solvents in architectural coating compositions (e.g. paints) without creating an unacceptable loss of scrub-resistance especially when the paints are applied during periods of colder ambient temperatures. While the presently claimed invention which is being examined is to a binder polymer, understanding where the polymer is ultimately used is helpful in understanding why the cited prior art reference does not anticipate the claimed invention.

Applicant's film forming binder polymer enables the use of coalescing solvents to be avoided or at least reduced without creating a scrub resistance problem. This is achieved by using a binder polymer modified by the presence of a mixture which is obtained from plant fibre (see Page 9 lines 17 of Applicant's Specification) and which includes protein and polysaccharide. The protein and polysaccharide mixture has been “de-starched” to the extent that it contains less than at least 2 wt%

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of starch (see Page 9 lines 2 and 3 of Applicant's Specification). The removal of starch is essential if the mixture is to be adequately soluble in the manufacturing systems and formulations used for architectural coating compositions. This combination is not taught by the cited prior art references.

Hamill does not anticipate the present invention because Hamill does not teach all of the elements of applicants claims. While Hamill does disclose film forming binder polymer compositions that can contain one or more of a list of materials, including protein and polysaccharide, no where does Hamill teach that the mixture contains less than 2% starch. The Examiner alleges that claims 7 and 8 teach a composition containing "protein and polysaccharide", but these claims only cover a "polysaccharide or derivative thereof" in claim 7 and a protein in claim 8. Further, "or derivative thereof" is noted, in the section on page 2 to which the Examiner refers, as including starches. But, no where does Hamill teach that the mixture contains less than 2% starch. So, a key element is missing from the Hamill teaching and therefore it cannot anticipate the claimed invention. Nor would this limitation be obvious from Hamill. Therefore, reconsideration and withdrawal of the rejection is respectfully requested.

For the above reasons, Applicants request reconsideration and withdrawal of the rejections and allowance of presently pending claims 46 - 56.

Should the Examiner wish to discuss any of the foregoing in more detail, the undersigned attorney would welcome a telephone call.

Respectfully submitted,


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